

THE DEPARTMENT OF REVENUE
OF THE STATE OF MONTANA,

Appellant,

-vs-

HARVEY & CONSTANCE TICE,

Respondent.

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) DOCKET NO.: PT-2003-35
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) FACTUAL BACKGROUND,
) CONCLUSIONS OF LAW,
) ORDER and OPPORTUNITY
) FOR JUDICIAL REVIEW
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The duty of this Board is to determine the appropriate market value for the property based on a preponderance of the evidence. Testimony was taken from both the taxpayer and the Department of Revenue, and exhibits from both parties were received.

The Board overrules the decision of the Cascade County Tax Appeal Board and affirms the DOR values for the subject land and improvements.

FACTUAL BACKGROUND

1. Due, proper, and sufficient notice was given of this matter, the hearing hereon, and of the time and place of the hearing. All parties were afforded opportunity to present evidence, oral and documentary.

2. The subject property is described as follows:

10.7 acres in Section 31, Township 21 North, Range 2 East, Fisher Tracts, 989 Moiver Road, County of Cascade, State of Montana and the mobile home improvements located thereon. (Assessor ID #: 0005800800).

3. For tax year 2003, the Department of Revenue appraised the subject land at a value of \$25,470 and the improvements at a value of \$16,080.

4. The taxpayers filed an appeal with the Cascade County Tax Appeal Board on August 4, 2003, requesting a land value of \$8,770 and an improvement value of \$5,390, stating the following reasons for appeal:

Ground water is not usable. Must have water hauled - Land is dry gumbo. The tralor (sic) is 29 years old and porly (sic) insulated. Because of its design the cost of moving it would make it worthless. Trailor

(sic) and garage and yard are on about the same the rest is dry pasture.

5. In its December 1, 2003 decision, the county board adjusted the land value to \$17,865 and the improvement value to \$8,040, citing the following justification for reduction:

After hearing testimony and receiving exhibits the Board orders a 30% reduction be granted on the land lowering the primary acre from \$14,850 to \$10,395 and the residual acres from \$1,100 to \$770 an acre for a new land value of \$17,865.00. The mobile home and other improvement will be afforded a 50% reduction because of their condition resulting in a new improvement value of \$8,040.00. The Board feels this represented the fair market value of the property.

6. The DOR then appealed that decision to this Board on December 19, 2003, citing the following reason for appeal:

The nature of the proof adduced at the hearing was insufficient, from a factual and a legal standpoint, to support the board's decision.

DOR'S CONTENTIONS

For the DOR, Ms. Lawson testified that this appeal was brought to this Board in an effort to maintain equity among similarly situated taxpayers and to argue for the integrity of the DOR's assessed values.

The subject mobile home was appraised using the cost approach, as are all mobile homes in Montana. The DOR introduced a series of photographs and appraisal records pertinent to the subject land and improvements (DOR Exhibits A through L).

The mobile home is a 20' by 60' 1974 Guerdon Magnolia. It does not have a foundation underneath. It contains three bedrooms and two baths. The DOR records indicate it is a low construction grade mobile home with the effective age the same as the year built (1974). The CDU (condition, desirability and utility) is fair and the physical condition is considered average. It contains a deck, a pole barn and small shed that has been assigned a flat value of \$250.

One of the issues under appeal is the issue of the mobility of the mobile home. It is unique in design in that it has the ability to fold into itself. The DOR's contention is that it can be moved, albeit not easily, should someone wish to buy it. The taxpayers had contended that its market value was diminished due to its inability to be moved.

Regarding the subject land value, Ms. Lawson testified that the DOR used vacant land sales to determine the valuation. From these sales, the DOR determined a base

value of \$14,800 for the first acre and \$1,100 for residual acreage.

In support of the DOR's total land and improvement value for the subject property, Ms. Lawson presented documentation concerning sales prices and DOR assessed values of four comparable mobile home properties (Exhibit I). These mobile homes are located in the same neighborhood as the subject. These sales, including land ranging in size from 0.92 acre to 5.01 acres, varied from sales prices in the \$32,792 to \$49,041 range. The DOR assessed value, in all cases except one, were lower than the sales price. The sales occurred during the years 1996 through 1999. Photographs of the comparable properties were also presented. (Exhibit D).

In its use of the cost approach to value mobile homes, Ms. Lawson testified that sales prices (Exhibit J) were used to determine a physical depreciation, or percent good, table for use in valuing mobile homes statewide. (Exhibit K).

A mobile home across the road from the subject, on 5.06 acres, was listed for sale at \$40,000 in October of 2003. It sold in November of 2003 for \$45,000. Ms. Lawson presented this more recent sale information in further

support of the DOR value of \$41,550 for the subject land and improvements.

Ms. Lawson quoted from a government publication on a soils survey, which stated that all of the land in Section 31, the area of the subject land, is basically composed of clay, in keeping with the taxpayers' testimony regarding the soil. She offered this information in support of her contention that all of the properties deemed comparable by the DOR are subject to the same soil conditions. "There's nothing different about his land than anybody else's."

TAXPAYERS' CONTENTIONS

The subject property is not served by a well. They haul water in and have a cistern. Any comparison to a property served by a well would be inappropriate for the subject property.

The main aspect of the subject property that has significantly devalued its market value is that the soil is shifting, alkaline "clay gumbo." The taxpayers have had little success in getting trees and bushes to grow in the 30 years they've lived on this property. The taxpayers also dispute that the properties deemed comparable to the subject experience the same soil

conditions.

The taxpayers brought a bag of dusty white rocks from their property to demonstrate the soda and alkali content of their soil.

Upon questioning, Mr. Tice stated that his requested value of \$14,160 for the total property is based his experience with "30 years of living there. . .When it rains heavy, you can go out and walk through our yard and you might get a half inch of mud stuck to your foot. On a day when it rains lightly but continually you don't really want to get off the ground because you will sink .. you'll lose your shoes. . .it literally sucked the cowboy boot off my foot trying to walk through it." (Harvey Tice testimony, State Tax Appeal Board hearing, May 11, 2004)

The aspect of the mobile home that substantially devalues its market value is its unique design: it must be folded upon itself in order to be moved. The roof would have to be unbolted the entire length of the trailer, then raised, and then the three inside walls and both end walls folded in, and the 60 foot outside wall then lays down onto the floor. A series of further complicated maneuvers involving the floor and roof would have to be performed in

order to ready the mobile home for movement. Mr. Tice contended that a potential buyer would look upon this as cost-prohibitive and cumbersome. Taxpayer's Exhibit 2 contains two mobile home moving estimates obtained by Mr. Tice. For a 16 foot wide conventional mobile home, an April 5, 2004 estimate from Keeler's Mobile Home Transport in Great Falls cites a cost of \$1,225. For a Magnolia fold-out, such as the subject mobile home, an estimate of \$4,300 was quoted from the same company.

The taxpayers presented a series of photographs showing structural problems with the mobile home and the poor soil conditions.

Even though they are accepting the county tax appeal board's reduction, Mr. Tice feels that value is still too high.

BOARD'S DISCUSSION

The Board finds that the DOR has satisfactorily demonstrated that its appraisal of the subject land and improvements was performed in accordance with statute and administrative rule. Substantial and compelling sales evidence was presented by the DOR in support of its value.

In the absence of compelling testimony and evidence in support of the taxpayers' requested value, the Board will uphold the values as determined by the DOR.

CONCLUSIONS OF LAW

1. The State Tax Appeal Board has jurisdiction over this matter. §15-2-301, MCA.
2. §15-8-111 MCA. Assessment - market value standard - exceptions. (1) All taxable property must be assessed at 100% of its market value except as otherwise provided.
3. The appeal of the DOR is granted and the decision of the Cascade County Tax Appeal Board is modified.

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ORDER

IT IS THEREFORE ORDERED by the State Tax Appeal Board of the State of Montana that the subject property shall be entered on the tax rolls of Cascade County by the local Department of Revenue office at the land value of \$25,470 and at the improvement value of \$16,080 for tax year 2003, as determined by the DOR. The decision of the Cascade County Tax Appeal Board is modified.

Dated this 19th day of May, 2004.

BY ORDER OF THE
STATE TAX APPEAL BOARD

(S E A L)

GREGORY A. THORNQUIST, Chairman

JERE ANN NELSON, Member

JOE R. ROBERTS, Member

NOTICE: You are entitled to judicial review of this Order in accordance with Section 15-2-303(2), MCA. Judicial review may be obtained by filing a petition in district court within 60 days following the service of this Order.

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on this 19th day of May, 2004, the foregoing Order of the Board was served on the parties hereto by depositing a copy thereof in the U.S. Mails, postage prepaid, addressed to the parties as follows:

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Nick Lazanas
Chairperson
Cascade County Tax Appeal Board
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